

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

FILE COPY

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

DEAN A. BARKER
RESPONDENT

FINAL DECISION AND ORDER
95 REB396

LS9706261REB

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Dean A. Barker
P.O. Box 286
Wautoma, WI 54982

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Dean A. Barker, is a real estate broker having State of Wisconsin license No. 43455, which was originally granted to Barker on June 2, 1995. Barker currently is employed as a real estate salesperson for Caldwell Banker Classic, said employment commencing on or about June 28, 1995.

2. On or about July 27, 1995, Leo and Cynthia Alonge (Alonge) listed their residential property located at FN N9145 Silver Spring Dr. in the Township of Neshkaro, County of Marquette, WI for sale with the Caldwell Banker Classic agency of Wautoma, WI.

3. During the course of that listing Darrell and Veronica Davidson (Davidson) submitted an offer to purchase through the Caldwell Banker Classic agency, said offer dated October 16, 1995. This offer was drafted by Barker.

4. By the terms of the offer, which was subsequently accepted by Alonge, the offer was contingent upon the sale of the buyer's property. The closing date was to be no later than December 2, 1995.

5. By the terms of the offer, which was subsequently accepted by Alonge, the offer was contingent upon the buyer being able to obtain, within 20 days of acceptance of the offer, a fixed rate first mortgage loan commitment, in an amount of not less than \$50,000 for a term of not less than 20 years, with an interest rate not exceeding 8.5% and monthly payments of principal and interest not exceeding \$450.00.

6. On or about November 15, Barker contacted Alonge to obtain a closing extension as the buyers had been unable to sell their property; said extension was not granted.

7. On December 2, 1995, the contract ran out as Davidson had not sold the existing property. Earnest money was returned to Davidson.

8. On or about November 30, 1995, Alonge requested evidence of application for financing or rejection of same by Davidson per contract agreement.

9. On or about March 5, 1996, Barker contacted Davidson to learn if they had requested financing to purchase the Alonge property.

10. On or about March 6, 1996, James Shie, assistant vice-president of F&M Bank, wrote Mr. Barker that F&M Bank had made a verbal commitment of financing, subject to the sale of existing property to Davidson.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Dean Barker has violated:
Section RL 24.025(1) Wisconsin Administrative Code and 452.133(2)(a) and 452.14(I) of the Wis. Stats. by failing to represent the interest of his client as agent and demonstrating incompetency to act as a broker, salesperson or timeshare salesperson in a manner which safeguards the interest of the public by his failure to ensure contingency requirements were being met within the specified timeframe of the contract..

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that Dean A. Barker, real estate license No. 43455, is **REPRIMANDED**.

IT IS FURTHER ORDERED, that Dean A. Barker, within six months of the date of this Order, successfully complete the following course modules from the real estate salesperson's course at an educational institution approved by the Department of Regulation and Licensing:

a. The 4 hour real estate contracts module RL 25.03(3)(m);
and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that in the event Dean A. Barker fails to comply with the required education as set forth above, or fails to verify the same to the Department of Regulation and Licensing as set forth above, then his real estate license shall be suspended, without further notice, hearing or order of the Board until he has complied with the terms of this Order.

IT IS FURTHER ORDERED, that Respondent Dean A. Barker pay partial costs of this matter in the amount of \$300.00 within 6 months of the date of this order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Dean A. Barker fails to pay the \$300.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Dean A. Barker, his real estate license shall be immediately suspended without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 95 REB 396 be, and hereby is closed.

Dated this 26 day of JUNE, 1999.

WISCONSIN REAL ESTATE BOARD

By 
Chairman

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

Dean A. Barker
RESPONDENT.

STIPULATION
95 REB 396

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving this matter known as investigative file 95 REB 396. DEAN A. BARKER ("Respondent") consents to the resolution of this matter by this Stipulation and the attached Final Decision and Order.

2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent has had the opportunity to consult with legal counsel regarding these matters and the legal implications of this Stipulation.

4. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts as set forth in the Findings of Fact, however, Respondent agrees that the Board may make the Findings of Fact and may reach the Conclusions set forth in the Conclusions of Law and may enter the Order attached hereto.

6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order. The matter shall then be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

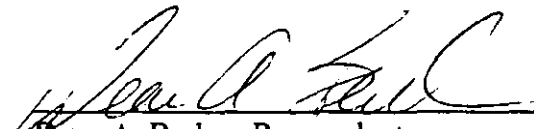
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7. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondent agrees that Complainant's attorney, Gerald M. Scanlan, may appear at any meeting of the Board with respect to the Stipulation and that his appearance is limited to statements in support of the Stipulation and to answer any questions the Board may have regarding the Stipulation. Respondent waives any right he may have to have notice of that meeting and to be present at the meeting of the Board.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


Dean A. Barker, Respondent

May 13 1997
Date


Gerald M. Scanlan, Attorney
Division of Enforcement

June 2, 1997
Date

IA396STIP.DOC

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On June 26, 1997, the Real Estate Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$300.00 Case #: LS9706261REB

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 300.00

The costs and/or forfeitures are due: December 26, 1997

NAME: Dean A. Barker LICENSE NUMBER: 43455

STREET ADDRESS: P.O. Box 286

CITY: Wautoma STATE: WI ZIP CODE: 54982

Check whether the payment is for costs or for a forfeiture or both:

X COSTS _____ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL _____ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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For Receipting Use Only

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Dean A. Barker,

AFFIDAVIT OF MAILING

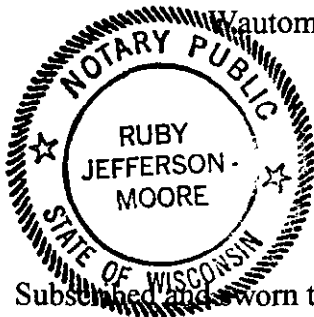
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On June 27, 1997, I served the Final Decision and Order dated June 26, 1997, and Guidelines for Payment of Costs and/or Forfeitures, LS9706261REB, upon the Respondent Dean A. Barker by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 157 306.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Dean A. Barker
P.O. Box 286
Wautoma WI 54982



Subscribed and sworn to before me

this 27th day of June, 1997.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

June 27, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)